



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,473	12/15/2003	Joseph John Fatula JR.	SJO920030066US1	3484
45216	7590	04/30/2008		
Kunzler & McKenzie 8 EAST BROADWAY SUITE 600 SALT LAKE CITY, UT 84111			EXAMINER LIU, LIN	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 04/30/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***ADVISORY ACTION***

1. This Advisory Action is in regards to the most recent response filed on 03/31/2008.

***Response to Arguments***

2. After carefully reviewing the Applicant's remarks, the following is a list of Applicant's main concerns on the previous Office Action
  - a. On page 10 of Applicant's remark, Applicant addressed that the objections to the Specification as failing to provide proper antecedent basis for the "computer readable storage medium" is supported by the originally filed claims and it is an unnecessary exercise to amend the specification.
  - b. On page 11 of Applicant's remark, Applicant argues that "the Office Action's proposed broad interpretation is not reasonable in light of the actual language of the claim because the proposed broad interpretation appears to ignore the implications of a storage medium".
  - c. On pages 12-13 of Applicant's remark, Applicant argues that the "while the claim language may not include an explicit definition of the term "parameter control request", the Office Action fails to acknowledge the context provided in the claim for the indicated limitation" and "the Office Action fails to provide any support to show how "any type of request" submitted by an end-user might correspond to a performance parameter stored in a profile."

Art Unit: 2145

- d. On page 13, 2nd paragraph of Applicant's remark, Applicant argues that "Talwar describes using a service level agreement (SLA) to specify CPU and network bandwidth requirements for a session. However, Talwar does not disclose dynamically changing the CPU and network bandwidth requirements in response to a parameter control request or another type of request".
3. With regard to argument **a**, the examiner acknowledges this issue. However, for the record of application prosecution, the objections to the specification stand still.
4. With regard to argument **b**, the examiner disagrees. Since the "computer readable storage medium" is not specifically defined in the specification, it is reasonable to interpret these medium as transmission signal, wherein the transmission signals are capable of storing some form of transmission mediums sending from one terminal to another.
5. With regard to argument **c**, the examiner disagrees. Talwar discloses submitting a user's job request for interactive sessions, wherein the interactive session is subject to service level agreements (SLA) (Talwar: page 2, paragraph 16). Therefore, it is reasonable for the examiner to interpret the "the parameter control request" and "performance parameter" in the present claim as "user's job request" and "the service level agreement (SLA)" of the prior art of record respectively.
6. With regard to argument **d**, the examiner disagrees. Talwar explicitly teaches "also using the information provided in **steps 300 and 302**, and based

Art Unit: 2145

on any provided policies, the contract generation engine determines any CPU, network bandwidth required for a user's session." (Talwar: page 2, paragraph 20), noted that the step 300 includes a reading and compiling a list of application for a user by the contract generation engine, which is the SLA, wherein the contracts generation engine is executed based on the user's job request (Talwar: page 2, paragraph 20). Therefore, the examiner concludes that the contracts generation engine of Talwar is dynamically changed based on user's job requests, and thus subsequently dynamically changing the CPU and network bandwidth requirements.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Liu whose telephone number is (571) 270-1447. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

Art Unit: 2145

Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. L./

/Lin Liu/

Examiner, Art Unit 2145